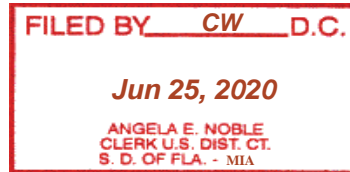


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2020-40

IN RE: CORONAVIRUS PUBLIC EMERGENCY



SECOND ORDER CONCERNING AUTHORIZATION UNDER THE CARES ACT

On March 28, 2020, acting pursuant to § 15002(b) of the CARES Act and the authority granted by the Judicial Conference of the United States, this Court entered Administrative Order 2020-23 authorizing the conduct of certain criminal proceedings by video or audio conference pursuant to the CARES Act.

Pursuant to § 15002(b)(3)(A) of the CARES Act, “On the date that is 90 days after the date on which an authorization for the use of video teleconferencing or telephone conferencing under paragraph (1) or (2) is issued, if the emergency authority has not been terminated under paragraph (5), the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the court or the chief judge or circuit justice of the circuit that includes the district court) to which the authorization applies shall review the authorization and determine whether to extend the authorization.”

This Court continues to evaluate its response to the spread of the COVID-19 virus and recognizes the need to assist in the preservation of public safety and health while effectively administering justice during this continued period of national emergency. This Court has reviewed the authorization entered pursuant to Administrative Order 2020-23, and it is hereby

ORDERED, that

1. I find that emergency conditions due to the COVID-19 virus outbreak continue to materially affect the functioning of the Courts within this District. Thus, pursuant to the authority granted under § 15002(b)(1) of the CARES Act, I hereby authorize judges in this District, with the consent of the defendant or the juvenile after consultation with counsel, to use video conferencing, or telephonic conferencing if video conferencing is not reasonably available for use, for the following events:

(A) Detention hearings under section 3142 of title 18, United States Code.

- (B) Initial appearances under Rule 5 of the Federal Rules of Criminal Procedure.
- (C) Preliminary hearings under Rule 5.1 of the Federal Rules of Criminal Procedure.
- (D) Waivers of indictment under Rule 7(b) 24 of the Federal Rules of Criminal Procedure.
- (E) Arraignments under Rule 10 of the Federal Rules of Criminal Procedure.
- (F) Probation and supervised release revocation proceedings under Rule 32.1 of the 5 Federal Rules of Criminal Procedure.
- (G) Pretrial release revocation proceedings under section 3148 of title 18, United States Code.
- (H) Appearances under Rule 40 of the Federal Rules of Criminal Procedure.
- (I) Misdemeanor pleas and sentencings as described in Rule 43(b)(2) of the Federal Rules of Criminal Procedure.
- (J) Proceedings under chapter 403 of title 18, United States Code (commonly known as the "Federal Juvenile Delinquency Act"), except for contested transfer hearings and juvenile delinquency adjudication or trial proceedings.

2. Pursuant to § 15002(b)(2) of the CARES Act, I further specifically find that felony pleas under Rule 11 of the Federal Rules of Criminal Procedure and felony sentencings under Rule 32 of the Federal Rules of Criminal Procedure cannot be conducted in person without seriously jeopardizing public health and safety. As a result, if judges in individual cases find, for specific reasons, that felony pleas or sentencings in those cases cannot be further delayed without serious harm to the interests of justice, judges may, with the consent of the defendant or the juvenile after consultation with counsel, conduct those proceedings by video conference, or by telephonic conference if video conferencing is not reasonably available. This authority extends to equivalent plea, sentencing or disposition proceedings under 18 U.S.C. 403 (commonly referred to as the "Federal Juvenile Delinquency Act").

3. This authorization is effective for ninety (90) days unless earlier terminated. If the emergency persists longer than ninety (90) days, I will review the situation for

possible extension of authority pursuant to the provisions of the CARES Act. Notwithstanding the foregoing, pursuant to the provisions of the CARES Act, this authority shall terminate on the last day of the covered emergency period or the date on which the Judicial Conference of the United States finds that emergency conditions due to the national emergency declared by the President under the National Emergencies Act with respect to the COVID-19 virus outbreak no longer materially affect the functioning of either the Federal courts generally or the Courts within this District.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County, Florida, this 25th day of June, 2020.



K. MICHAEL MOORE
CHIEF UNITED STATES DISTRICT JUDGE

- c: Honorable William H. Pryor, Jr., Chief Judge, Eleventh Circuit
All Southern District Judges, Bankruptcy and Magistrate Judges
James Gerstenlauer, Circuit Executive, Eleventh Circuit
Ariana Fajardo Orshan, United States Attorney
Gadyaces Serralta, United States Marshal
Michael Caruso, Federal Public Defender
Angela E. Noble, Court Administrator • Clerk of Court
Joe Falzone, Clerk, Bankruptcy Court
Katherine Koonce, Chief Probation Officer
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